



COMMONWEALTH of VIRGINIA

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To: Mr. William H. Ferguson, II, Executive Director
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From: Elizabeth B. Peay
Assistant Attorney General

Date: October 22, 2008

Subject: Letter of Assurance for 18 VAC 100-10
Model Public Participation Guidelines

I have reviewed the Board for Opticians' changes to 18 VAC 100-10 which repeals the existing Public Participation Guidelines and adopts the Model Public Participation Guidelines. In my view, as counsel to the Board for Opticians, the Board may promulgate these regulations pursuant to § 54.1-1701 of the *Code of Virginia*. The regulations do not

appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.
